



## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Stephen Gyor AICP, Case Manager  
Joel Lawson, Associate Director Development Review  
**DATE:** May 28, 2013

BOARD OF ZONING ADJUSTMENT

District of Columbia

CASE NO. 18559

EXHIBIT NO. 25

**SUBJECT:** BZA Case 18559 - Request for special exception relief pursuant to §§ 733 1 and 3104 to allow a fast food establishment at 2233 Wisconsin Ave, NW in the NO/C-2-A Zone District

### **I. OFFICE OF PLANNING RECOMMENDATION**

Einstein and Noah Corp. has applied for zoning relief to permit the operation of a fast food establishment (Einstein Bros. Bagels at 2233 Wisconsin Ave, NW). The Office of Planning (OP) recommends **approval** of this special exception application pursuant to §§ 733 1 and 3104

### **II. LOCATION AND SITE DESCRIPTION:**

|                                    |                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Address.                           | 2233 Wisconsin Ave NW                                                                                                                                                                                                                                                                                                                                                                  |
| Legal Description.                 | Square 1299, Lot 1006 (hereinafter, the "Property")                                                                                                                                                                                                                                                                                                                                    |
| Ward                               | 3                                                                                                                                                                                                                                                                                                                                                                                      |
| Lot Characteristics                | The Subject Property is located on the east side of Wisconsin Avenue NW between W Place NW and Calvert Street NW. It is irregularly shaped and is approximately 72,601 square feet.                                                                                                                                                                                                    |
| Zoning                             | NO/C-2-A – Naval Observatory Overlay                                                                                                                                                                                                                                                                                                                                                   |
| Existing Development               | The Subject Property is currently improved with a five-story commercial office building with ground-floor retail and underground and surface parking. The retail space, currently vacant, was previously the site of a Vespa scooter dealership.                                                                                                                                       |
| Historic District:                 | None                                                                                                                                                                                                                                                                                                                                                                                   |
| Adjacent Properties                | To the south is another five-story commercial building, to the north is a series of two-story commercial structures. Across Wisconsin is a series of one- and two-story retail and commercial buildings. Beyond the commercial buildings on the west side of Wisconsin Avenue is a low-scale neighborhood of row and semi-detached dwellings. To the east is the US Naval Observatory. |
| Surrounding Neighborhood Character | The surrounding area is characterized by low- to moderate- density commercial buildings with ground floor retail.                                                                                                                                                                                                                                                                      |



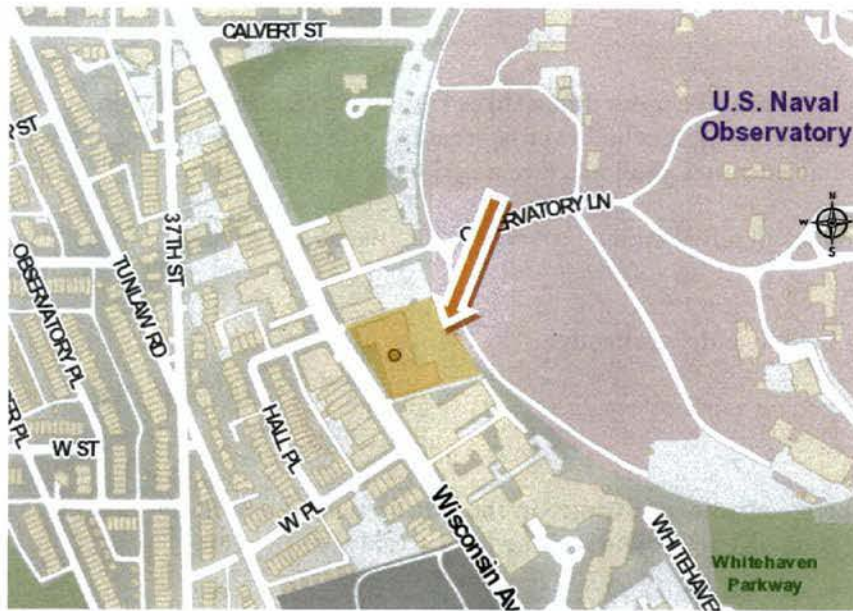
### III. PROJECT DESCRIPTION IN BRIEF

|               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Applicant     | Einstein and Noah Corp                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Proposal      | The Applicant seeks to occupy an existing ground-floor retail space of approximately 3,037 square feet within the existing building at 2233 Wisconsin Avenue to operate an Einstein Bros Bagel shop. The store will operate between 5:30 am and 5:00 pm. The Applicant proposes 55 seats indoors, with an additional 28 seats in an outdoor cafe to be located in the public space, for which Public Space Committee approval would be required. A total of 30 parking spaces in the surface parking area on the rear of the Property will be reserved for the Applicant's use. |
| Relief Sought | §§ 733.1 and 3104, special exception to permit a fast food establishment. According to the Applicant, the Zoning Administrator determined that relief from § 733.1 is necessary given the food preparation equipment that would be used in the establishment.                                                                                                                                                                                                                                                                                                                   |

### V. ZONING REQUIREMENTS

| NO/C-2-A Zone              | Regulation | Existing      | Proposed <sup>1</sup> | Relief:         |
|----------------------------|------------|---------------|-----------------------|-----------------|
| Height (ft.) § 400         | NA         | NA            | NA                    | None required   |
| Lot Width (ft) § 401       | NA         | 261.10 ft     | 261.10 ft             | None required   |
| Lot Area (sq ft) § 401     | NA         | 72,601 sq ft. | 72,601 sq ft          | None required   |
| Floor Area Ratio § 401     | 2.5        | NA            | NA                    | None required   |
| Lot Occupancy § 403        | 60% max    | 34%           | 34%                   | None required   |
| Rear Yard (ft) § 404       | NA         | 102 ft        | 102 ft                | None required   |
| Side Yard (ft) § 405       | NA         | 8 ft / 13 ft  | 8 ft / 13 ft          | None required   |
| Court § 406                | NA         | NA            | NA                    | None required   |
| Fast Food Restaurant § 733 | NA         | NA            | NA                    | Relief required |

<sup>1</sup> Information provided by applicant



**Subject Property**



**Subject Property**

Fast food establishments are permitted in NO/C-2-A Districts as a special exception if approved by the BZA under § 3104, subject to the provisions of § 733.1 *et. seq.* Additionally, an Applicant may request a modification to the conditions listed in §§ 733.2 --733.4, provided “the general purposes and intent of this section are complied with.”

Special Exception (§§ 733.1 and 3104)

**733 No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District unless separated therefrom by a street or alley;**

The Subject Property is not located within 25 feet of a Residence District

**734 Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a residence District;**

The Applicant indicated that all refuse would be stored within the building

**735 The use shall not include a drive-through.**

The Applicant is not proposing a drive-through

**733.6 There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone district boundary line for a Residence District.**

The Subject Property does not abut a Residence District or a zone district boundary line for a Residence District

**733.7 The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions.**

The proposed fast food use is not likely to become objectionable to neighboring properties. The establishment would operate similarly to other fast food businesses along Wisconsin Avenue. The proposed hours of operation would be between 5:30 am and 5:00 pm. The proposal includes a sidewalk café to be located in public space, however, Wisconsin Avenue has significant commercial activity and the café should not create an adverse impact to neighbors. OP is not aware of any filings in the record that have expressed concern about the hours.

**733.8 The use shall provide sufficient off-street parking, but not less than that required by § 2101.1, to accommodate the needs of patrons and employees.**

The Applicant would have the exclusive right to use 30 of more than 90 surface parking spaces on the Subject Property. § 2101.1 requires one parking space per 100 square feet in excess of 1,500 square feet for fast food uses, or in this case, approximately 15 parking spaces.

**733.9 The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions.**

The proposed fast food restaurant would be located along a commercial corridor and include 30 off-street parking spaces.

**733.10 There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site.**

The use is not likely to obstruct public right-of-ways or parking spaces, aisles, or driveways. The application states that deliveries would be made by Einstein and Noah Corp. on a twice-weekly basis at approximately 5am.

**733.11 The Board may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property.**

OP recommends no special conditions.

## **VI. ANC/COMMUNITY COMMENTS**

As of this writing, OP has not received comments from the ANC or community.